

**MINUTES**  
**LANCASTER COUNTY BOARD OF COMMISSIONERS**  
**TUESDAY, APRIL 19, 2005**  
**COUNTY COMMISSIONERS HEARING ROOM, ROOM 112**  
**FIRST FLOOR, COUNTY-CITY BUILDING**  
**1:30 P.M.**

Commissioners Present: Larry Hudkins, Chair  
Deb Schorr, Vice Chair  
Bernie Heier  
Ray Stevens  
Bob Workman

Others Present: Kerry Eagan, Chief Administrative Officer  
Bruce Medcalf, County Clerk  
Kristy Mundt, Deputy County Attorney  
Trish Owen, Chief Deputy County Clerk  
Gwen Thorpe, Deputy Chief Administrative Officer

The Board of Commissioners meeting was called to order at 1:30 p.m..

- 1) **MINUTES: Approval of the minutes of the Board of Commissioners meeting held on Tuesday, April 12, 2005.**

**MOTION:** Heier moved and Workman seconded approval of the minutes of the Board of Commissioners meeting dated April 12, 2005. Schorr, Stevens, Workman, Heier and Hudkins voted aye. Motion carried.

- 2) **PUBLIC COMMENT:**

There was no public comment and the meeting proceeded as planned.

- 3) **CLAIMS: Approval of all claims processed through Tuesday, April 19, 2005.**

**MOTION:** Workman moved and Stevens seconded approval of all claims processed through April 19, 2005. Heier, Workman, Stevens, Schorr and Stevens voted aye. Motion carried.

- 4) **PUBLIC HEARINGS:**

**A. Increase appropriations, in the amount of \$140,000, for the County Property Management Fund.**

The Chair opened the public hearing.

4) **PUBLIC HEARINGS CONTINUED:**

Dave Kroeker, Budget & Fiscal Officer, explained the shortage was due to additional spending on the renovation of the old Attention Center for CenterPointe and repairs to the Community Mental Health Center.

The Chair asked if anyone else wished to testify.

No one appeared and the hearing was closed.

5) **OLD BUSINESS:**

**A. County Change of Zone 04080, from AG Agricultural District to I Industrial District, requested by Capital Concrete Company, on property generally located at the northeast corner of Highway 2 and Highway 42 (South 162<sup>nd</sup> Street) in Lancaster County, Nebraska.**

Stevens noted that the item was not scheduled as a public hearing, however, individuals were in attendance who wished to speak.

Hudkins asked the Commissioners if they wished to open the item as a public hearing.

No objections were voiced.

Hudkins opened County Change of Zone 04080 as a public hearing and asked if anyone wished to testify in favor of the proposal.

The Clerk administered the oath to Don Voges, General Manager of Capital Concrete Company.

Voges discussed the concern regarding water and noted that results from the well drill were good regarding quantity and quality.

In response to a question asked by Hudkins, Voges stated they would need between 15 to 20 gallons per minutes. He added they are now getting 38 gallons per minutes between two different wells.

The Clerk administered the oath to Mike DeKalb, Planning Department.

Discussion followed regarding relocation of the plant farther to the south.

5) **OLD BUSINESS CONTINUED:**

In response to a question asked by Heier, DeKalb stated the original proposal was for 28 acres, however, the Planning Department and Planning Commission recommended the change of zone for approximately eight acres. He stated the Board was presented two legal descriptions, one for the northern eight acres and the other being the original irregular tract parcel of 28 acres.

The Chair asked if anyone wished to testify in opposition to the proposal.

The following individuals were administered the oath and appeared in opposition noting the following concerns: damage to unpaved road, increased traffic traveling north on 162<sup>nd</sup> Street, air pollution such as dust and exhaust fumes from vehicles, light pollution, water pollution, decrease in property values, visibility/safety issues, location of power line by Omaha Public Power District (OPPD) and noise.

- ▶ Marsha McMahon, 9500 South 162<sup>nd</sup> Street, Bennet, Nebraska
- ▶ Doreen Jose, 8900 South 162<sup>nd</sup> Street, Bennet, Nebraska. Submitted petition containing signatures of 33 individuals in opposition to the proposal (Exhibit 1).
- ▶ Mary Wit, 8501 South 176<sup>th</sup> Street, Bennet, Nebraska. Submitted written comments and two maps for the record (Exhibit 2).
- ▶ Richard Heinke, 17300 Yankee Hill Road, Bennet, Nebraska
- ▶ Jerry Fletcher, 1351 Prairie View Road, Eagle, Nebraska
- ▶ Cherie Swanson, 17401 Yankee Hill Road, Bennet, Nebraska
- ▶ Tamara Wood, 16455 Yankee Hill Road, Bennet, Nebraska
- ▶ Doug Jose, 8900 South 162<sup>nd</sup> Street, Bennet, Nebraska
- ▶ Becky May, 7300 North 162<sup>nd</sup> Street, Walton, Nebraska

The Chair asked if anyone else wished to provide testimony.

No one appeared and the hearing was closed.

Voges addressed neighbors' concerns regarding run-off by stating they would have a concrete retention pond and that they would reuse the water at the plant. As for dust, he stated, they have met all County requirements for dust abatement.

**MOTION:** Schorr moved and Heier seconded to postpone indefinitely County Change of Zone 04080, from AG Agricultural District to I Industrial District, requested by Capital Concrete Company, on property generally located at the northeast corner of Highway 2 and Highway 42 (South 162<sup>nd</sup> Street) and request a subarea plan be brought forth by Planning for development of the interchange within the next six months.

**FRIENDLY AMENDMENT TO THE MOTION:** Heier offered a friendly amendment to direct the Planning Department develop a subarea plan.

5) **OLD BUSINESS CONTINUED:**

The maker of the motion concurred.

Workman stated he felt the Board should make a decision to approve or deny the change of zone.

Heier withdrew his friendly amendment and his second to the original motion.

Stevens seconded the original motion.

**CLARIFICATION OF MOTION:** Schorr moved and Stevens seconded to postpone indefinitely County Change of Zone 04080, from AG Agricultural District to I Industrial District, requested by Capital Concrete Company, on property generally located at the northeast corner of Highway 2 and Highway 42 (South 162<sup>nd</sup> Street) and request a subarea plan be brought forth by Planning for development of the interchange within the next six months.

**ROLL CALL:** Stevens and Schorr voted aye. Heier, Workman and Hudkins voted no. Motion failed.

**MOTION:** Workman moved and Heier seconded denial of County Change of Zone 04080 requested by Capital Concrete Company.

**AMENDMENT TO MOTION:** Heier amended the motion to include that the Planning Department be directed to develop a subarea plan for the area located at approximately South 162<sup>nd</sup> Street and Highway 2 within six months.

Workman indicated he had no objections to the amendment, but preferred it to be a separate motion.

Heier withdrew the amendment.

**ROLL CALL:** Workman, Schorr, Heier and Hudkins voted aye. Stevens voted no. Motion carried.

**MOTION:** Schorr moved and Heier seconded to direct the Planning Department to develop a subarea plan for the area generally located at South 162<sup>nd</sup> Street and Highway 2 within six months.

5) **OLD BUSINESS CONTINUED:**

Workman added that the subarea plan should address the safety concerns of the neighbors in relation to the heavy use of South 148<sup>th</sup> Street and Highway 2.

Schorr added it should also address the beltway and the power line.

**ROLL CALL:** Stevens, Workman, Heier, Schorr and Hudkins voted aye. Motion carried.

**B. An agreement with Dr. Mathias I. Okoye for forensic pathology services as the coroner's physician. The services shall be provided for the County through the County Attorney's Office. The services shall include forensic autopsies, provision of a morgue facility and staff, coroner's call, testimony, additional tests and other services. The term of the agreement shall be from May 1, 2005 to April 30, 2006. The County shall pay \$270,000 per year for the services and an additional fee of \$1,700 per autopsy for any autopsy over 135 for the contract year. (C-05-0203)**

In response to a question asked by Workman regarding forensic pathology services in Douglas County, Gary Lacey, County Attorney, explained that the cost of autopsies performed in Douglas County would be less, however, preparation for trial would be more costly.

Discussion followed regarding the possibility of Douglas, Sarpy, Lancaster, Washington, Cass, Saunders and Gage counties establishing a regional facility for forensic pathology services.

**MOTION:** Workman moved and Stevens seconded approval of an agreement with Dr. Mathias I. Okoye for forensic pathology services as the coroner's physician. Workman, Schorr, Stevens and Hudkins voted aye. Heier voted no. Motion carried.

6) **NEW BUSINESS:**

**A. A resolution in the matter of supplementing appropriations from the previously adopted budget for the County Property Management Fund. The budget needs to be increased \$140,000 because of higher costs for the remodel of the Old Attention Center Building and higher than anticipated costs for repairs to 2200 St. Mary's and the remodel to the Midtown Center. (R-05-0046)**

**MOTION:** Stevens moved and Schorr seconded approval of Resolution 05-0046 in the matter of supplementing appropriations from the previously adopted budget for the County Property Management Fund.

6) **NEW BUSINESS CONTINUED:**

Heier inquired if the resolution included modification of the lease agreement.

Schorr stated Don Killeen, County Property Manager, would be coming forward to explain the changes at a staff meeting.

**ROLL CALL:** Heier, Workman, Stevens, Schorr and Hudkins voted aye. Motion carried.

**B. A resolution in the matter of transferring appropriations from the General Fund Miscellaneous Budget to various general fund agencies (General Assistance and Veterans Service Administration) in the amount of \$1,077,620. (R-05-0047)**

**MOTION:** Heier moved and Schorr seconded approval of Resolution 05-0047 in the matter of transferring appropriations from the General Fund Miscellaneous Budget to various general fund agencies (General Assistance and Veterans Service Administration) in the amount of \$1,077,620. Schorr, Heier, Workman, Stevens and Hudkins voted aye. Motion carried.

**C. A resolution in the matter of adopting policies regarding the security of electronic protected health information and appointing a security officer pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). (R-05-0048)**

**MOTION:** Heier moved and Stevens seconded approval of Resolution 05-0048 in the matter of adopting policies regarding the security of electronic protected health information and appointing a security officer pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Stevens, Workman, Heier, Schorr and Hudkins voted aye. Motion carried.

**D. An application for a Special Designated License from Duggan's Pub, Inc. to provide liquor beverage service at a wedding reception on Saturday, May 7, 2005 from 2:00 p.m. to 12:00 a.m. at Country Pines located at 6305 West Adams Street in Lancaster County, Nebraska.**

**MOTION:** Heier moved and Schorr seconded approval of an application for a Special Designated License from Duggan's Pub, Inc. to provide liquor beverage service at a wedding reception on Saturday, May 7, 2005 from 2:00 p.m. to 12:00 a.m. at Country Pines located at 6305 West Adams Street in Lancaster County, Nebraska.

**FRIENDLY AMENDMENT:** Stevens offered that no parking on West Adams Street be allowed.

6) **NEW BUSINESS CONTINUED:**

Terry Wagner, County Sheriff, stated there is adequate parking for 250 attendees at Country Pines. He stated his office would make sure there is no parking on West Adams Street.

Both the maker of the motion and the seconder concurred with the friendly amendment.

**ROLL CALL:** Heier, Stevens, Schorr, Workman and Hudkins voted aye. Motion carried.

**E. An agreement with the State of Nebraska Probation Administration for the services of a drug technician to expedite juvenile drug testing results ordered by the Separate Juvenile Court of Lancaster County. Term of the agreement is May 1, 2005 through June 30, 2006. The County will pay \$7,300 for such services. (C-05-0204)**

**MOTION:** Stevens moved and Schorr seconded approval of an agreement with the State of Nebraska Probation Administration for the services of a drug technician to expedite juvenile drug testing results ordered by the Separate Juvenile Court of Lancaster County. Workman, Schorr, Stevens, Heier and Hudkins voted aye. Motion carried.

**F. Hardware maintenance agreement and Business Associate addendum with IBM for maintenance and support services on an AS/400 E-Server, three printers and related equipment utilized by Lancaster Manor. The term of the agreement is July 1, 2005 through June 30, 2010. The County shall pay \$4,778.68 per year for such services. (C-05-0205)**

**MOTION:** Stevens moved and Workman seconded approval of a hardware maintenance agreement and Business Associate addendum with IBM for maintenance and support services on an AS/400 E-Server, three printers and related equipment utilized by Lancaster Manor. Stevens, Workman, Heier, Schorr and Hudkins voted aye. Motion carried.

**G. A seasonal power purchase agreement with Lincoln Electric System (LES) for the curtailment of loads at the Lancaster County Youth Services Center during the summer months of June to September, 2005. Term of the agreement is June 1, 2005 to September 30, 2005. LES will pay the County at a rate of \$3.00 per kilowatt of curtailed demand per summer season month. (C-05-0206)**

6) **NEW BUSINESS CONTINUED:**

**MOTION:** Schorr moved and Workman seconded approval of a seasonal power purchase agreement with Lincoln Electric System (LES) for the curtailment of loads at the Lancaster County Youth Services Center during the summer months of June to September, 2005. Schorr, Stevens, Heier, Workman and Hudkins voted aye. Motion carried.

**H. Service Provider Agreement between the Nebraska Department of Health and Human Services and Lancaster County, on behalf of the Community Mental Health Midtown Center, for adult day care services. Term of the agreement is May 1, 2005 through April 30, 2006. (C-05-0207)**

**MOTION:** Heier moved and Stevens seconded approval of a service provider agreement between the Nebraska Department of Health and Human Services and Lancaster County, on behalf of the Community Mental Health Midtown Center, for adult day care services. Stevens, Schorr, Heier, Workman and Hudkins voted aye. Motion carried.

**I. An agreement between the Folsom Children's Zoo & Botanical Gardens and Lancaster County, on behalf of Families, First and Foremost, to rent the zoo on May 20, 2005, from 6:00 p.m. until 8:00 p.m. as part of "May is Mental Health Month". The County will pay \$450 to rent the zoo. (C-05-0208)**

**MOTION:** Workman moved and Stevens seconded approval of an agreement between the Folsom Children's Zoo & Botanical Gardens and Lancaster County, on behalf of Families, First and Foremost, to rent the zoo on May 20, 2005, from 6:00 p.m. until 8:00 p.m. as part of "May is Mental Health Month". Schorr, Stevens, Heier, Workman and Hudkins voted aye. Motion carried.

**J. Renewal of employee life insurance policy with Mutual of Omaha, Policy Numbers: GLUG-78L3 and GVTL-78L3. The contract will extend coverage of the employee life insurance policy with Mutual of Omaha from June 1, 2005 to June 1, 2006 at no increase. (C-05-0209)**

**MOTION:** Schorr moved and Stevens seconded approval of the renewal of employee life insurance policy with Mutual of Omaha, Policy Numbers: GLUG-78L3 and GVTL-78L3. Workman, Schorr, Heier, Stevens and Hudkins voted aye. Motion carried.

6) **NEW BUSINESS CONTINUED:**

**K. Allowance Modification No. 1 with Midwest Roofing Inc. to install a vertical leg of flashing under existing metal cap in connection with the Lancaster County Extension Office Re-Roof. The Contingency/Discovery Allowance will be decreased by \$458. This will be the only allowance modification as the project is now complete. The remaining \$4,542 in the Contingency Allowance will be credited to the County. (C-05-0212)**

**MOTION:** Workman moved and Heier seconded approval of Allowance Modification No. 1 with Midwest Roofing Inc. to install a vertical leg of flashing under existing metal cap in connection with the Lancaster County Extension Office re-roof. Heier, Workman, Stevens, Schorr and Hudkins voted aye. Motion carried.

**L. A release of liability and indemnity agreement to accept a Polaris Ranger 6 x 6 Utility Vehicle for the Sheriff's Office upon being selected to receive this vehicle from the U.S. Smokeless Tobacco Company. (C-05-0213)**

**MOTION:** Schorr moved and Stevens seconded approval of a release of liability and indemnity agreement to accept a Polaris Ranger 6 x 6 Utility Vehicle for the Sheriff's Office upon being selected to receive this vehicle from the U.S. Smokeless Tobacco Company. Schorr, Stevens, Workman, Heier and Hudkins voted aye. Motion carried.

**M. An interlocal agreement between the City of Lincoln and Lancaster County regarding the 2005 Byrne Justice Assistance Grant (JAG) Program Award, in the amount of \$173,782. Action was taken at the April 14, 2005 County Board of Commissioners Staff Meeting. (C-05-0219)**

**MOTION:** Stevens moved and Workman seconded approval of an interlocal agreement between the City of Lincoln and Lancaster County regarding the 2005 Byrne Justice Assistance Grant (JAG) Program Award, in the amount of \$173,782. Workman, Schorr, Heier, Stevens and Hudkins voted aye. Motion carried.

**N. Recommendation from the Purchasing Agent and the County Engineer to reject a bid received from Nebraska Machinery Co. for one used, Minimum 120 PTO H.P. 2WD Tractor for the County Engineer. (B-05-0015)**

**MOTION:** Stevens moved and Heier seconded to reject a bid received from Nebraska Machinery Co. for one used, minimum 120 PTO H.P. 2WD tractor for the County Engineer. Heier, Workman, Stevens, Schorr and Hudkins voted aye. Motion carried.

6) **NEW BUSINESS CONTINUED:**

**O. An application for public transportation assistance for the Lancaster County Rural Transit.**

**MOTION:** Workman moved and Stevens seconded approval of an application for public transportation assistance for the Lancaster County Rural Transit. Workman, Stevens, Schorr, Heier and Hudkins voted aye. Motion carried.

**P. Election Form for the 457 Deferred Compensation Program with The Hartford, Group Number 621030, regarding whether to stay with the existing variable annuity contract or revert back to the old variable annuity contract.**

**MOTION:** Stevens moved and Schorr seconded approval of acceptance of the continuation of the current variable annuity contract. Stevens, Heier, Workman, Schorr and Hudkins voted aye. Motion carried.

**Q. Reappointment of Rodrigo Cantarero and Ken Svoboda to the Lincoln-Lancaster County Board of Health for a three-year term expiring April 15, 2008.**

**MOTION:** Heier moved and Stevens seconded approval of the reappointment of Rodrigo Cantarero and Ken Svoboda to the Lincoln-Lancaster County Board of Health for a three-year term expiring April 15, 2008. Heier, Workman, Schorr, Stevens and Hudkins voted aye. Motion carried.

**R. A political subdivision tort claim filed against Lancaster County by the Nebraska Department of Health and Human Services, in the amount of \$215,850, for damage to the Department's property.**

**MOTION:** Workman moved and Stevens seconded denial of a tort claim filed against Lancaster County by the Nebraska Department of Health and Human Services, in the amount of \$215,850, for damage to the Department's property. Heier, Workman, Stevens, Schorr and Hudkins voted aye. Motion carried.

6) **NEW BUSINESS CONTINUED:**

**S. Executive Session - (Pending Litigation & Purchase of Real Estate) - Mike Thew, Chief Deputy County Attorney**

**MOTION:** Schorr moved and Heier seconded to enter into Executive Session at 3:32 p.m. for the purpose of discussing pending litigation and the purchase of real property. Schorr, Heier, Workman, Stevens and Hudkins voted aye. Motion carried.

(Schorr exited the hearing room at 3:50 p.m..)

**MOTION:** Workman moved and Heier seconded to exit Executive Session at 4:08 p.m.. Schorr, Workman, Heier and Hudkins voted aye. Schorr was absent from voting. Motion carried.

7) **CONSENT ITEMS:** These are items of business that are routine which are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:

**A. Receive and place on file:**

1. **Noxious Weed Control Authority's Monthly Report for the Combined Weed Program with the City of Lincoln for March, 2005.**
2. **Noxious Weed Control Authority's Monthly Report for March, 2005.**
3. **Clerk of the District Court's Monthly Report for March, 2005.**
4. **County Attorney's Quarterly Report for January 1, 2005 through March 31, 2005.**

**B. Requests from the following to voluntarily participate in the County's Retirement Plan having met the requirements:**

- **Tiffany Chamberlin, an employee with Lancaster Manor**
- **Regina O. Miallie, an employee with Lancaster Manor**
- **Galina A. Thomas, an employee with Lancaster Manor**
- **Byron Hurder, an employee with the Lancaster County Sheriff's Office**
- **Sharon C. Hillman, an employee with the Youth Services Center**

7) CONSENT ITEMS CONTINUED:

C. Right-of-way contracts relating to road construction between the Lancaster County Engineering Department and the following individuals:

- Lucile Thompson, in the total amount of \$523, located on Northwest 27<sup>th</sup> Street between West Alvo Road and Waverly Road; Project No. C55-F-415(3). (2 contracts) (C-05-0210 and C-05-0211)
- Douglas Manton, in the total amount of \$1,468, located on Northwest 27<sup>th</sup> Street between West Alvo Road and Waverly Road; Project No. C55-F-415(3). (2 contracts) (C-05-0214 and C-05-0215)
- Boyd Clements, in the total amount of \$25,835.75, located between West Adams and Northwest 70<sup>th</sup> Streets; Project No. C55-M-407(1). (3 contracts) (C-05-0216 through C-05-0218)

**MOTION:** Workman moved and Stevens seconded approval of the Consent Items. Heier, Stevens, Workman and Hudkins voted aye. Schorr was absent from voting. Motion carried.

8) ADJOURNMENT:

**MOTION:** Stevens moved and Heier seconded adjournment of the Board of Commissioners meeting at 4:12 p.m.. Stevens, Heier, Workman and Hudkins voted aye. Schorr was absent from voting. Motion carried.

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Bruce Medcalf  
County Clerk

**MINUTES  
LANCASTER COUNTY BOARD OF EQUALIZATION  
TUESDAY, APRIL 19, 2005  
COUNTY COMMISSIONERS HEARING ROOM, ROOM 112  
FIRST FLOOR, COUNTY-CITY BUILDING  
IMMEDIATELY FOLLOWING THE REGULAR BOARD OF COMMISSIONERS  
MEETING**

Commissioners Present: Larry Hudkins, Chair  
Bernie Heier  
Ray Stevens  
Bob Workman

Commissioners Absent: Deb Schorr, Vice Chair

Others Present: Kerry Eagan, Chief Administrative Officer  
Scott Gaines, Chief Administrative Deputy County Assessor/Register  
of Deeds  
Bruce Medcalf, County Clerk  
Kristy Mundt, Deputy County Attorney  
Trish Owen, Chief Deputy County Clerk  
Gwen Thorpe, Deputy Chief Administrative Officer

The Board of Equalization meeting was called to order at 4:14 p.m..

- 1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, April 12, 2005.**

**MOTION:** Heier moved and Workman seconded approval of the minutes of the Board of Equalization meeting dated April 12, 2005. Stevens, Workman, Heier and Hudkins voted aye. Motion carried.

- 2) **PUBLIC COMMENT:**

There was no public comment and the meeting proceeded as planned.

3) **ADDITIONS AND DEDUCTIONS:**

**Approval of 30 additions and deductions to the tax assessment rolls per Exhibit A.**

**MOTION:** Workman moved and Stevens seconded approval of the additions and deductions to the tax assessment rolls. Heier, Workman, Stevens and Hudkins voted aye. Motion carried.

4) **MOTOR VEHICLE TAX EXEMPTIONS:**

**Calvary United Methodist Church  
Lincoln Lancaster County Child Guidance Center  
Villa Marie School**

**MOTION:** Stevens moved and Workman seconded approval of the motor vehicle tax exemptions. Workman, Stevens, Heier and Hudkins voted aye. Motion carried.

5) **ADJOURNMENT:**

**MOTION:** Workman moved and Heier seconded adjournment of the Board of Equalization meeting at 4:15 p.m.. Stevens, Heier, Workman and Hudkins voted aye. Motion carried.

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Bruce Medcalf  
County Clerk